



# **FREDERICK COUNTY PLANNING COMMISSION**

**December 14, 2011**

**TITLE:** Kingsbrook Crossing Shopping Center: Giant Fuel Facility # 346

**FILE NUMBER:** SP 89-20 (AP #11613, APFO #11379 & FRO #11614)

**REQUEST:** Site Plan

Requesting approval for a five-fuel pump (10 fueling positions) facility with a 120 square foot kiosk and bathroom structure, located on a 15.22 acre pad site within the Kingsbrook Shopping Center.

## **PROJECT INFORMATION:**

**LOCATION:** Located at the corner of New Design Road and Corporate Drive.  
**ZONE:** Zoned: PUD (Planned Unit Development)  
**REGION:** Frederick  
**WATER/SEWER:** W-1, S-1.  
**COMP. PLAN/LAND USE:** General Commercial

## **APPLICANT/REPRESENTATIVES:** (as applicable)

**APPLICANT:** Giant of Maryland, LLC  
**OWNER:** R&R Frederick Associates 1 Ltd. Part  
**ENGINEER:** Vanasse Hangan Brustlin, Inc.  
**ARCHITECT:** Not Listed  
**ATTORNEY:** Not Listed

**STAFF:** Tolson DeSa, Principal Planner

**RECOMMENDATION:** Conditional Approval

## **Enclosures:**

Exhibit #1-Site Plan Rendering  
Exhibit #2-Letter of Understanding: Kingsbrook Giant Fuel Facility

# STAFF REPORT

## BACKGROUND

### Present Proposal:

Requesting approval for a five-fuel pump (10 fueling positions) facility with a 120 square foot kiosk and bathroom structure, located on a 15.22 acre pad site within the Kingsbrook Shopping Center.

### Past Approvals:

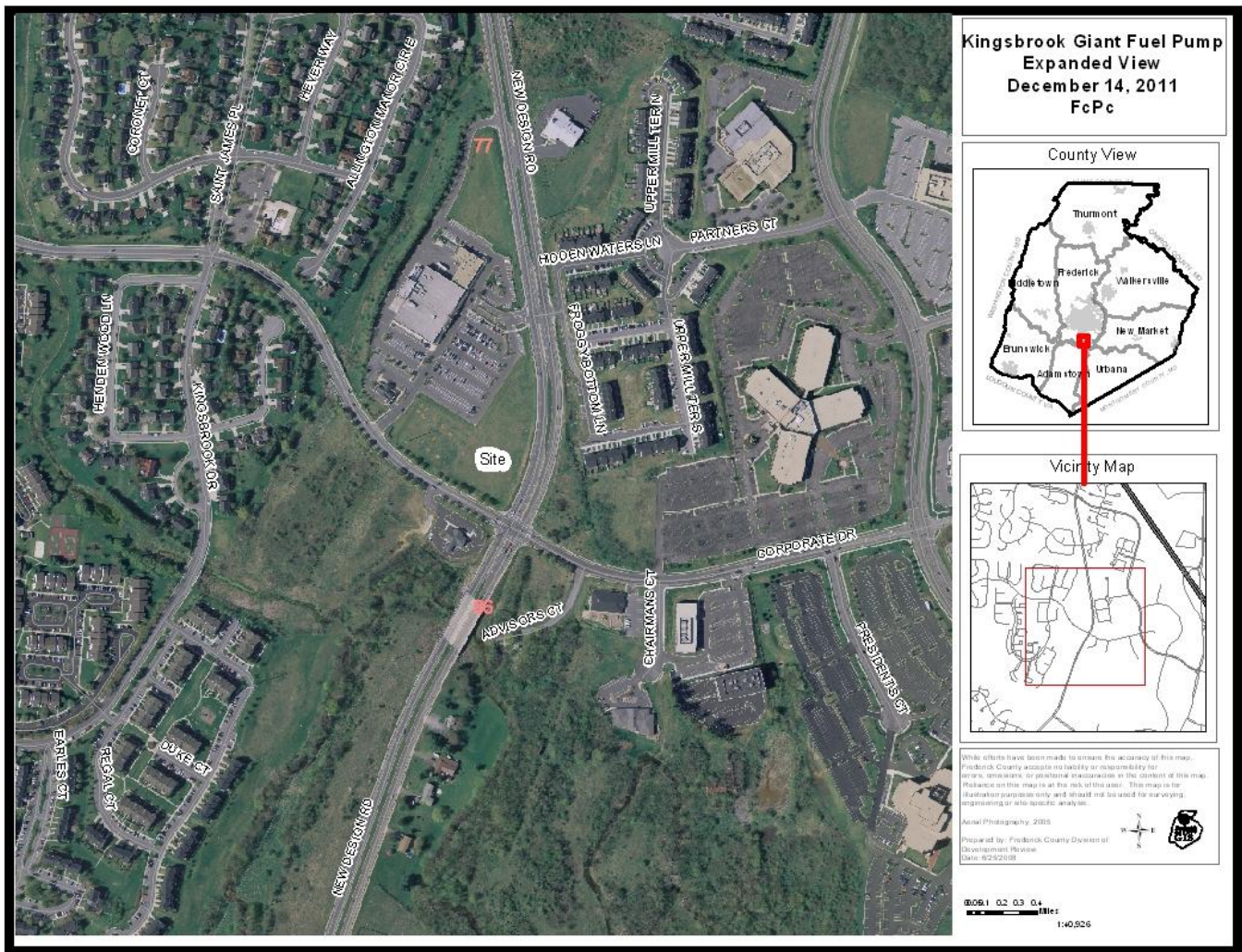
The Kingsbrook PUD was rezoned from Agricultural to Planned Unit Development in May of 1988 by the Board of County Commissioners.

The 1988 Phase I approval was for 1,206 dwelling units, 12.1 acres of Commercial, 8.5 acres Office/Research and 7.7 acres of office in addition to other open space, school and government uses.

The Phase II plan was originally approved in December of 1988 and reflected a reduction in the number of dwelling units to 932, and 12.1 acres of Commercial and 16.2 acres of Office area. Subsequent to the original approval, a revision was made to the residential section of the PUD which increased the residential units to 941, well within the limits set by the Phase 1 approval.

In January of 1996, the FCPC approved a revision to the Phase II plan, which shifted the locations of the Commercial and Office areas from the rear of the site in order to avoid floodplain areas. The new location would be along New Design Road which contains a mix of 9.0 acres of Commercial and 6.1 acres of Office.

In January of 2005 the Planning Commission conditionally approved a revision to the Phase II Plan to allow a Quasi Public use and conditionally approved the site plan for an Office/Daycare use north of the Giant Food grocery store. The Applicant constructed an 8,533 square foot one story, retail center with 39 new parking spaces on a pad site within an existing shopping center.

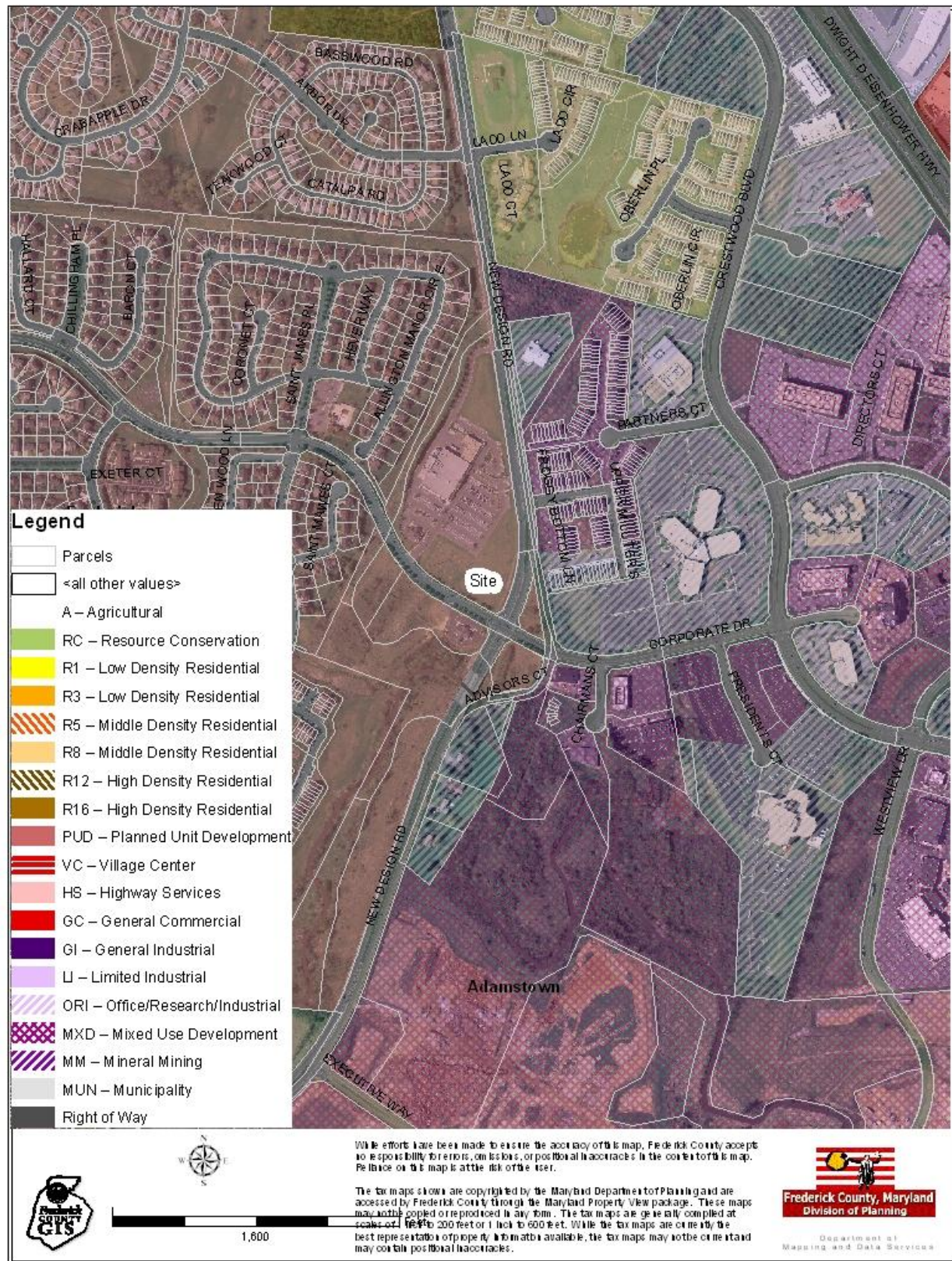


## ANALYSIS

**Land Use:** The proposed use is being reviewed as an “Automobile Filling Station” under *PUD* provisions per §1-19-10.500.11 in the Zoning Ordinance and is a permitted use in the PUD Zoning District subject to site development plan approval.



**Zoning:** The site is located within the Planned Unit Development (PUD) Zoning District, shown in light red.



**Kingsbrook Crossing Shopping Center: Giant Fuel Facility # 346**

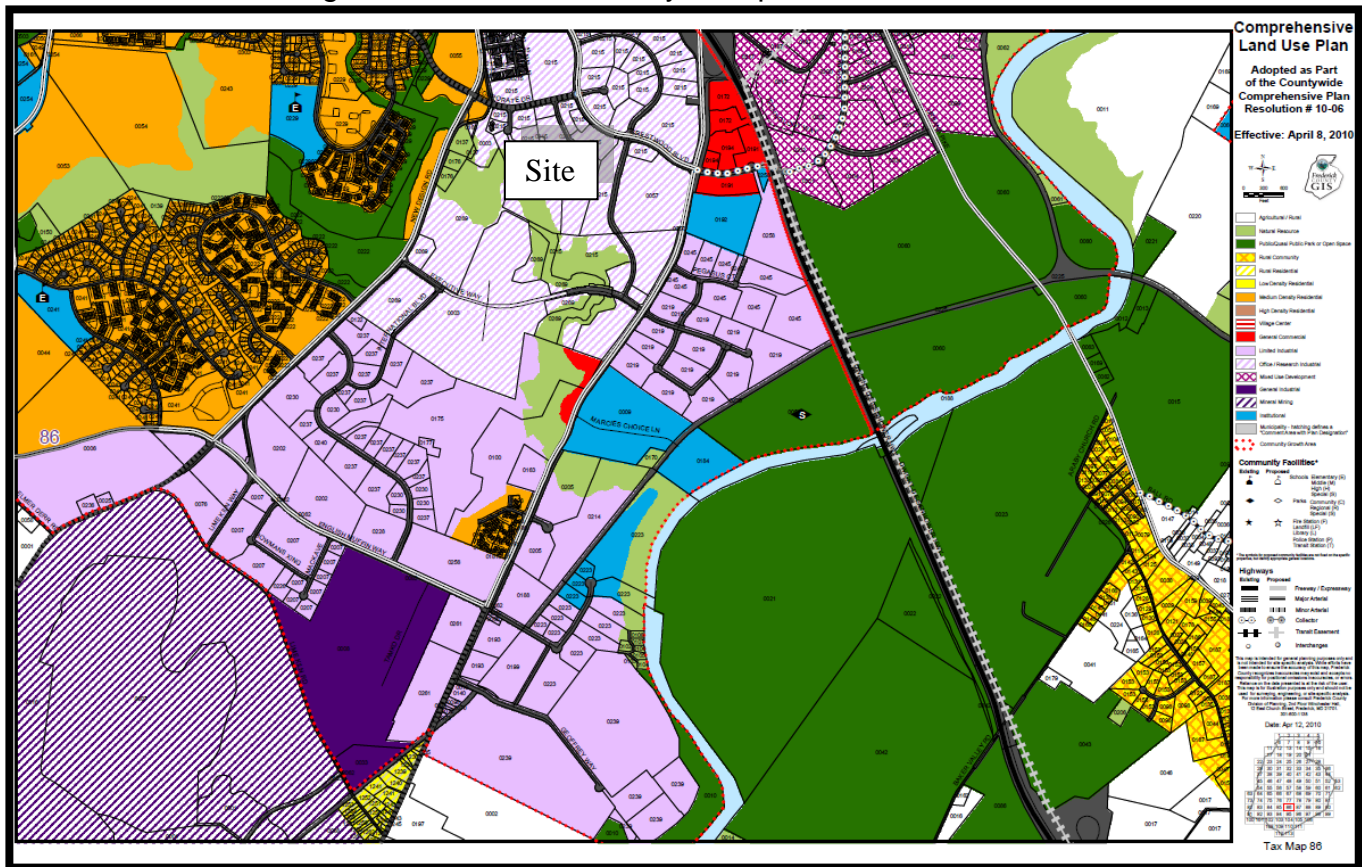
December 14, 2011

Page 4 of 13



## **Frederick County Comprehensive Plan: Frederick Region**

The Frederick County Comprehensive Plan indicates that the land use for this property is Medium Density Residential, shown in orange below. The use proposed for the parcel complies with the Land Use designation within the County Comprehensive Plan.



**Dimensional Requirements/Bulk Standards:** Section §1-19-6.1 of the Zoning Ordinance stipulates the setback requirements and the minimum lot area for the proposed use. The setback requirements are 50-foot front yard and a 25-foot rear yard. The maximum height allowed is 60 feet. This property is unique because the site is a corner lot with three (3) front yards and a rear yard. The proposed plan meets the Bulk/Dimensional requirements.

**Access/Circulation:** There are a total of three existing access points for the Kingsbrook Crossing Shopping Center. The proposed primary access to the gas pumps will be via a new 30' foot wide access point off of Corporate Drive. There is also an existing access drive off of Corporate which serves the bank, shopping center and gas pumps. A full movement monumented access point also exists off New Design Road, which serves the entire shopping center. There is a northern access point also located off of New Design Road which would primarily serve future unbuilt uses.

The proposed fuel facility will have two access drives into the existing parking lot for the shopping center.

**The #10/Mall-to-Mall Connector**

**HELP US CONSERVE!**  
Please return schedule to rack when finished or keep for future use.

— #10/Mall-to-Mall Connector  
 ●●● Bus serves this route segment at scheduled times  
 ●●●● Bus serves these route segments by advance request only  
 ● Bus stops listed on schedule  
 ★ Timed connections with other Connector Routes  
 — Street Map

### Shopping Center:

**Bank:**

**Proposed Fuel Facility:**

Total Required Parking: 315 spaces

Total Existing Parking: 425 spaces

Total Provided Parking: 427 spaces

**Kingsbrook Crossing Shopping Center: Giant Fuel Facility # 346**

December 14, 2011

Page 6 of 13

The site also contains 6 standard ADA accessible spaces, in addition to 6 van accessible ADA spaces. The proposed fuel facility site is providing 1 standard 9'x20' parking space plus one van accessible ADA parking space.

The existing and proposed parking complies with all applicable code requirements.

**Loading Area:** This use is not required to provide a typical commercial loading space. The site has been designed to allow full circulation of a WD-50 truck with fuel tanker in order to allow for necessary refueling of the underground tanks.

**Landscaping:** The Applicant has worked with Staff in order to propose a substantial, landscape plan throughout this site. The landscaping contains a variety of plant species, which provide screening as well as aesthetics. The planting schedule follows the standard sizes that have been approved by the Planning Commission.

**Utilities:** The site is to be served by public water and sewer and is classified W-1, S-1. The entire site is in pressure Zone #1.

**Bicycle Parking:** The Applicant is providing four bicycle racks adjacent to the existing Giant grocery store.

**Lighting:** The Applicant has noted on the plan that lighting will not exceed 0.5 ft/candles at the periphery of the site and lighting will be directional onto the site through the use of shielding and lighting orientation. The proposed lighting complies with all applicable code requirements.

**Signage:** The site is allowed a maximum of 47 square feet of signage. The Applicant is proposing 41 square feet of signage on the fuel canopy. The Applicant is also proposing 37.3 square feet of fuel pricing signage, which is located at the internal entrance to the site off of the existing parking lot to the shopping center. The fuel pricing signage is exempt from County signage regulations. The proposed signage complies with all applicable code requirements.

#### **Adequate Public Facilities Ordinance (APFO):**

Roads: The 10 new fueling positions will be expected to generate 120 am and 139 pm weekday, and 162 Saturday, peak hour driveway trips. The main site access points and three off-site intersections were studied with results as follows:

- Site Accesses: LOS A
- Corporate Dr/New Design Rd: LOS B
- Corporate Dr/MD 351: LOS F
- New Design Rd/Crestwood Blvd: LOS D

The SHA and County accepted mitigation for the failing stop sign controlled intersection at Corporate Drive and MD 351 is the construction of a roundabout. Under the provisions of 1-20-13 of the APFO, the Applicant has opted to contribute its fair share toward this improvement. In addition to this contribution, there are three other existing escrow accounts in the study area that require a contribution. A total mitigation contribution of \$19,966 is required for APFO approval, as detailed on page 2 of the attached Letter of Understanding.

There are two existing safety and operational concerns being impacted by this project. They include: 1) a berm obstructing sight distance for right turning motorists on eastbound Corporate Drive approaching New Design Road and 2) a substandard length left turn lane on northbound New Design Road approaching Corporate Drive. As part of the site plan approval, the berm will be removed, as delineated at the improvement plan stage and the short left turn lane can be mitigated by DPW signal timing/phasing adjustments in the future when or as actually needed.

Schools: This project is exempt from schools testing as it is a non-residential use.

DUSWM: Public sewer and water facilities are currently adequate to serve the Project

**Forest Resource Ordinance (FRO):** The FRO mitigation requirements documented under AP 4318 must be provided prior to grading or building permits, whichever is applied for first.

Mitigation requirements are:

1. Purchase 2.28 acres of New forest banking credits, OR:
2. Purchase 5.70 acres of Existing forest banking credits, OR
3. Payment of fee-in-lieu at the prevailing rate at the time payment is made (currently \$0.54/sq ft owed). (99,317 sq ft of mitigation required.)

Staff recommends the purchase of banking credits, which are currently much cheaper than the fee-in-lieu mitigation rate. A list of available forest banks is available on the County's website.

#### **OTHER AGENCY COMMENTS**

<b><i>Other Agency or Ordinance Requirements</i></b>	<b><i>Comment</i></b>
<b><i>Development Review Engineering (DRE):</i></b>	Approved
<b><i>Development Review Planning:</i></b>	A few minor drafting issues noted in Hansen, in addition to items listed in the report.
<b><i>State Highway Administration (SHA):</i></b>	N/A.
<b><i>Div. of Utilities and Solid Waste Mngt. (DUSWM):</i></b>	Approved
<b><i>Health Dept.</i></b>	Approved
<b><i>Office of Life Safety</i></b>	Approved
<b><i>DPDR Traffic Engineering</i></b>	Approved
<b><i>Historic Preservation</i></b>	N/A.

#### **FINDINGS**

Based on the discussion in this report and with the conditions listed below, Staff finds that the application meets and/or will meet all applicable Zoning, APFO and FRO requirements once the conditions of approval have been met.



Staff notes that if the Planning Commission conditionally approves the site plan, the site plan is valid for a period of three (3) years from the date of Planning Commission approval.

Staff has no objection to conditional approval of the site plan.

### **RECOMMENDATION**

Should the Planning Commission conditionally approve this Site Plan SP # 89-20 (AP# 11613, APFO 11379 & FRO 11614) for the proposed Giant Fuel Pumping Station, the motion for approval should include the following item:

1. Site plan approval for a period of three years from today's date.
2. APFO approval until December 14, 2014.

Staff recommends that the following items be added as conditions of approval:

1. Address all agency comments as the plan proceeds through completion.
2. The Applicant shall provide FRO mitigation prior to building or grading permit, whichever is applied for first.

# Giant Fuel Facility

## Frederick County, Maryland





**COMMISSIONERS**

Blaine R. Young  
*President*

C. Paul Smith  
*Vice President*

Billy Shreve

David P. Gray

Kirby Delauter

**COUNTY MANAGER**

David B. Dunn

**COMMUNITY  
DEVELOPMENT  
DIVISION**

Eric E. Soter  
*Division Director*

**DEPARTMENT OF  
PERMITS AND  
INSPECTIONS**

Gary W. Hessong  
*Department Director*



**DIVISION OF PERMITTING AND DEVELOPMENT REVIEW  
FREDERICK COUNTY, MARYLAND**

*Department of Development Review*  
30 North Market Street • Frederick, Maryland 21701  
[www.co.frederick.md.us](http://www.co.frederick.md.us)

**ADEQUATE PUBLIC FACILITIES LETTER OF UNDERSTANDING**

***Kingsbrook Crossing PUD  
Giant Fuel Facility # 346***

*Site Plan # SP 89-20 (AP #11379)*

**In General:** The following Letter of Understanding ("Letter") between the Frederick County Planning Commission ("Commission") and Giant of Maryland, LLC ("Developer"), together with its/their successors or assigns, sets forth the conditions and terms which the Commission deems to be the minimum necessary improvements dealing with school, water, sewer, and road improvements that must be in place for the property identified below to be developed, as proposed under the approved site plan for a Giant Fuel Facility (the "Project"), in compliance with the Frederick County Adequate Public Facilities Ordinance, ("APFO").

The Developer, its successors or assigns, hereby agrees and understands that unless the required improvements are provided in accordance with this Letter, APFO requirements will not be satisfied and development will not be permitted to proceed.

This Letter concerns itself with the Developer's 15.2 +/- acre parcel of land, which is zoned Planned Unit Development (PUD), and located in the northwest quadrant of New Design Road and Corporate Drive, with site access from both intersecting roadways. This APFO approval will be effective for development of a new gas station with up to 10 fueling positions, which is shown on the site plan submitted to the Commission for approval on December 14, 2011.

**Schools:** Schools are not impacted because the development of the property is a non-residential use.

**Water and Sewer Improvements:** Public sewer and water facilities are currently adequate to serve the Project; the Applicant recognizes that capacity is not guaranteed until purchased. APFO approval for sewer and water does not guarantee that building permits will be issued. Building permit issuance is subject to compliance with the Annotated Code of Maryland, Environment Article Section 9-512, et seq. and all applicable County regulations, including, but not limited to, Section 1-16-106 of the Frederick County Subdivision Regulations.

**Road Improvements:** In accordance with the January 5, 2011 Traffic Impact Analysis by Street Traffic Studies, LTD, the total uses on the site are capped at a total amount of 120 A.M. and 139 P.M. weekday, and 162 Saturday, peak hour vehicle driveway trips.



In accordance with the developer option outlined in Section 1-20-11, 12 of the County Code, as a condition of the APFO approval of the Project, the Developer has opted to pay its proportionate contribution, in lieu of construction, toward the following existing escrow accounts:

1. Escrow Account No. 3247 for a signal and ped phase at New Design Road and Corporate Drive - The estimated cost of the improvement is \$156,800. As determined by DPDR-Traffic Engineering Staff, the Developer's proportionate share of this Road Improvement is 4.57%. Therefore the Developer hereby agrees to pay \$7,170 to the escrow account for this Road Improvement.
2. Escrow Account No. 3306 for a southbound right turn lane at the intersection of New Design Road and Crestwood Boulevard. - The estimated cost of the improvement is \$241,000. As determined by DPDR-Traffic Engineering Staff, the Developer's proportionate share of this Road Improvement is 1.87%. Therefore the Developer hereby agrees to pay \$4,510 to the escrow account for this Road Improvement.
3. Escrow Account No. 3307 for a signal at New Design Road and Crestwood Boulevard - The estimated cost of the improvement is \$200,000. As determined by DPDR-Traffic Engineering Staff, the Developer's proportionate share of this Road Improvement is 0.85%. Therefore the Developer hereby agrees to pay \$1,700 to the escrow account for this Road Improvement.

As a condition of the APFO approval of the Project, the Developer is required to pay its proportionate contribution to a new escrow account for a roundabout at the intersection of MD 351 and Corporate Drive. The estimated cost of the improvement is \$1,242,700. As determined by DPDR-Traffic Engineering Staff, the Developer's proportionate share of this Road Improvement is 0.53%. Therefore the Developer hereby agrees to pay \$6,586 to the new escrow account for this Road Improvement.

A total of \$19,966 for the escrow payments described above must be paid to the County by the Developer, its successors or assigns, prior to the issuance of any building permit for the Project. Should this payment not be made within one year of the execution of this Letter, the County reserves the right to adjust this amount, based on an engineering cost index.

Finally, the Developer shall re-grade, or cause to be re-graded, an on-site berm that causes inadequate sight distance at the intersection of New Design Road and Corporate Drive for eastbound motorists desiring to make a right hand turn on red, as deemed necessary by the County, and completed prior to receipt of Certificate of Occupancy for the Project.

**Period of Validity:** The APFO approval is valid for as long as the site plan remains valid, three (3) years from the date of Commission approval. APFO approval expires on December 14, 2014.

**Disclaimer:** This Letter pertains to APFO approval only, and shall not be construed to provide any express or implied rights to continue the development process. The Project remains subject to all applicable rules and regulations, including but not limited to those related to zoning, water and sewer, and subdivision. The Planning Commission's jurisdiction and authority is limited by State and County law, and approvals may be required from other local or state governmental agencies before the proposed development can proceed.

[Signatures on next page]

*Kingsbrook PUD – Giant Fuel Facility #346 LOU*  
*Page 2 of 3*

**Kingsbrook Crossing Shopping Center: Giant Fuel Facility # 346**

December 14, 2011  
Page 12 of 13

**DEVELOPER:**

By: \_\_\_\_\_

Name:

Title:

Date: \_\_\_\_\_

**FREDERICK COUNTY PLANNING COMMISSION:**

By: \_\_\_\_\_

John McClurkin, Chair or Robert Lawrence, Secretary

Date: \_\_\_\_\_

**ATTEST:**

By: \_\_\_\_\_

Gary Hessong, Director, Division of Permitting &  
Development Review

Date: \_\_\_\_\_

*Planner's Initials / Date* \_\_\_\_\_

*County Attorney's Office Initials / Date* \_\_\_\_\_

*(Approved as to legal form)*